

**To:** Casso, Ruben[Casso.Ruben@epa.gov]  
**Cc:** Lorang, Phil[Lorang.Phil@epa.gov]; Werner, Christopher[Werner.Christopher@epa.gov]; Keas, Ashley[keas.ashley@epa.gov]  
**From:** Beaver, Melinda  
**Sent:** Wed 11/1/2017 5:43:51 PM  
**Subject:** FW: AIR POLLUTION: Court keeps Ark. haze litigation on ice

Thanks Ruben! Hope all is going well in R6!

I was just working on an update to our haze tracking report, which made me wonder when the next litigation deadline is. Now I know its Dec. 15.

**From:** Casso, Ruben  
**Sent:** Wednesday, November 01, 2017 1:29 PM  
**To:** Beaver, Melinda <Beaver.Melinda@epa.gov>  
**Subject:** AIR POLLUTION: Court keeps Ark. haze litigation on ice

## **AIR POLLUTION: Court keeps Ark. haze litigation on ice**

Sean Reilly, E&E News reporter

Published: Wednesday, November 1, 2017

A court wants parties to continue talks in an Arkansas haze case regarding emissions from Entergy Corp. coal-fired power plants like the Independence plant near Newark, Ark. [Photolitherland/Wikipedia](#)

A federal appeals court is maintaining a hold on lawsuits surrounding federal haze reduction requirements for Arkansas, overriding objections from environmental groups that state regulators are acting in bad faith.

In a brief unsigned order this morning, the 8th U.S. Circuit Court of Appeals kept the case in abeyance until Dec. 15, with all sides required to submit new status reports at that point.

The order marked a win for U.S. EPA, the Arkansas Department of Environmental Quality and Entergy Corp. In status reports submitted yesterday, all had asked the court for more time to hammer out a settlement to the regional haze litigation.

"With approximately \$2 billion at stake ... Entergy has the greatest incentive of the parties to ensure that the abeyance period is used efficiently to determine if a negotiated resolution is possible," company attorneys said in an allusion to the projected cost of complying with an Obama-era cleanup plan for several coal-fired power plants.

Under President Trump, EPA officials have retreated from that earlier approach in favor of a state-drafted alternative. In a joint filing yesterday, EPA and the Arkansas Department of Environmental Quality (ADEQ) acknowledged the revisions are taking longer than expected and sought more time. The litigation has already been on hold since March. The National Parks Conservation Association and the Sierra Club had argued yesterday that added delay was pointless.

The state had provided a draft of its regional haze plan only two business days earlier, the groups' lawyers wrote, adding the provisions "do not provide a basis" for a negotiated deal. While the original EPA plan would have required Entergy to install "state-of-the-art" sulfur dioxide controls on one plant, for example, "the draft state plan unlawfully fails to require any meaningful reduction in air pollution," according to the filing.

Although a haze plan for Arkansas is now almost a decade overdue, the two groups said in their filing, "ADEQ has not made a good faith effort to resolve the issues in dispute in *this* litigation, and, by all appearances, the agency has no intention of seeking to negotiate with, or account for," the interests of the environmental groups. In vain, they asked the court to end the hold on legal proceedings and set a schedule for submission of remaining briefs.

The regional haze program, dating back to 1999 in its current form, aims to restore natural views to 156 national parks and wilderness areas by 2064. In unveiling its original cleanup plan for Arkansas last year, EPA had predicted the new pollution controls on coal-fired power plants in the state would annually cut emissions of sulfur dioxide and nitrogen oxides by about 68,500 tons and 15,100 tons, respectively.